

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

ERICKSON PRODUCTIONS, INC.; and JIM
ERICKSON,

Plaintiffs,

v.

ATHERTON TRUST; KRAIG R. KAST; and
ONLY WEBSITES, INC.

Defendants.

No. 12-CV-1693-PGG

Hon. Paul G. Gardephe

ECF CASE

**DECLARATION OF DANIAL NELSON IN SUPPORT OF
PLAINTIFFS' SUPPLEMENTAL MEMORANDUM OF LAW IN OPPOSITION TO
DEFENDANT KAST'S MOTION TO DISMISS**

I, Danial A. Nelson, an attorney duly admitted to practice before this Court, do hereby declare under penalty of perjury as prescribed in 28 U.S.C. § 1746, as follows:

1. I am a partner at Nelson & McCulloch LLP and one of the attorneys for Plaintiffs in this action. I have personal knowledge of the facts contained in this declaration and am competent to testify to them.

2. I submit this declaration in support of Plaintiffs' Supplemental Memorandum of Law in Opposition to Defendant Kast's Motion to Dismiss.

3. Attached hereto as Exhibit 1 is a true and correct copy of a letter dated July 12, 2011, from Kevin McCulloch, Plaintiffs' counsel, to Defendant Kast demanding that he immediately cease and desist the unauthorized use of Plaintiffs' copyrighted images on the Atherton website.

4. Attached hereto as Exhibit 2 is a true and correct copy of an email exchange dated July 13, 2011 between Defendant Kast and Mr. McCulloch.

5. Attached hereto as Exhibit 3 is a true and correct copy of an email dated March 7, 2012 from Kast to Mr. McCulloch.

6. Attached hereto as Exhibit 4 is a true and correct copy of business registration records from the San Diego County Clerk's Office identifying "Atherton Trust" as one of four fictitious business names that Kast uses for his business, registered as an "Individual" and not a "Trust."

7. Attached hereto as Exhibit 5 is a true and correct copy of "call logs" maintained by Defendant Only Websites, Inc. regarding its correspondence and communications with Defendant Kast. These records were maintained by Only Websites and faxed to Plaintiffs' counsel on June 29, 2012.

8. Attached hereto as Exhibit 6 is a true and correct copy of screen captures from the Atherton Trust website that is the subject of this action.

9. Attached hereto as Exhibit 7 is a true and correct copy of online records demonstrating that Kraig Kast (using the e-mail account for Mariellen Baker) registered a new domain name for a company identify as California Trust Co. Also attached as Exhibit 7 is a true and correct copy of the online records for Mr. Kast's "LinkedIn" account (which is a social and business networking website) where he identifies himself as the "managing trustee" of the California Trust Co.

10. Attached hereto as Exhibit 8 is a true and correct copy of a complaint filed against Kraig Kast (aka Warren Craig Rudinger) asserting claims of breach of contract, breach of fiduciary duty, and fraud. The case was filed in the Superior Court in Los Angeles under the caption *Diana Reinecker v. Kast, et al.*, Case No. SC115099 (Dec. 2011).

Dated: New York, New York
November 30, 2012

By:

A handwritten signature in black ink, appearing to read "Danial A. Nelson", written over a horizontal line.

Danial A. Nelson